

UNITED STATES DISTRICT
COURT WESTERN DISTRICT OF
TEXAS AUSTIN DIVISION

GOOD RIVER FARM, LP

Plaintiff,

v.

**MARTIN MARIETTA
MATERIALS, INC.; AND
TXI OPERATIONS, LP.**

Defendants.

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NO. 1:17-cv-01117

AGREED MOTION FOR CONTINUANCE OF TRIAL DEADLINES

1. In accordance with the provisions of Rule 16 of the Federal Rules of Civil Procedure, and the Local Rules of the United States District Court for the Western District of Texas, Plaintiff Good River Farm, LP and Defendants Martin Marietta Materials, Inc. and TXI Operations, LP (collectively, the “Parties”) file this agreed motion requesting the Court to continue the trial deadlines in the above-captioned case for at least 90 days.
2. Consistent with the Court’s Emergency Orders in Light of COVID, the Parties request a “phone conference[] . . . to select new trial dates.”¹

A. Introduction

3. Plaintiff is Good River Farm, LP; Defendants are Martin Marietta Materials, Inc., and TXI Operations, LP.
4. Plaintiff originally sued Defendants for private nuisance, both permanent and temporary, violation of *Texas Water Code* §11.086(a), negligence, negligence per se, exemplary damages,

¹ Dckt. Nos. 60, 61, and 62.

and injunctive relief. Thereafter, Plaintiff filed its First Amended Complaint,² alleging claims for temporary private nuisance, violation of *Texas Water Code* §11.086(a), negligence, negligence per se, exemplary damages, and injunctive relief. The Court dismissed Plaintiff's claim for negligence per se on November 30, 2020.³

5. As of today, the Court has further established the following deadlines:⁴
 - a. The final pretrial conference to be held at 1:30 p.m. on June 2, 2021.
 - b. The jury trial to commence at 9:00 am on June 21, 2021.
6. Inherent in the Court's scheduling order, issued today, is that pursuant to Local Rule CV-16(e) multiple pretrial filings are due no later than tomorrow, May 19, 2021.

B. Request for Continuance

7. The Parties ask the Court to continue the following trial-related deadlines by at least 90 days: for final pretrial conference and for the day of trial.
8. This request for continuance is not sought merely for delay, but so that justice may be done. There is good cause for this motion. As a result of the COVID-19 Pandemic, this matter has been delayed by more than one year. Additional time to prepare for trial and pretrial is necessary as a result of such stagnation, including the necessity to contact all witnesses for both sides. This is in keeping with the Court's prior orders⁵ regarding rescheduling following the pandemic. Should the Court grant it, additional time will not inhibit the course of justice, but will better afford all Parties reasonable opportunity to prepare for final trial.
9. Attorneys for all parties have agreed to this continuance and have signed this agreed motion.

² Dckt. No. 7.

³ Dckt. No. 63.

⁴ Dckt. No. 64.

⁵ Dckt. Nos. 60, 61, and 62.

C. Conclusion

10. For these reasons, the Parties ask the Court to continue the final pretrial conference and trial setting in this case for at least 90 days, and the Parties request a phone conference to select new trial dates.

Respectfully submitted,

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